

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible For Universal Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund	)	WC Docket No. 10-90

**REPLY TO OPPOSITIONS TO PETITIONS FOR RECONSIDERATION**

TracFone Wireless, Inc. (“TracFone”), by its attorneys, hereby replies to comments contained in oppositions and comments on petitions for reconsideration filed on or about July 29, 2016 in the above-captioned proceeding.

By supporting broadband in its Lifeline Modernization Order,<sup>1</sup> in addition to continuing to subsidize voice telephone service long relied upon by millions of low-income, Lifeline-eligible households, the Commission has taken a dramatic step to bring American households “on line” without regard to their economic status. The Commission should be commended for that bold and important initiative.

However, the Commission’s modernization of Lifeline to support broadband should not be achieved at the high and avoidable cost of abolishing voice Lifeline service for those who rely on it for their communications needs. Much of the focus of TracFone’s petition for reconsideration in this proceeding and its comments in response to other parties’ petitions for reconsideration addressed that all-important point — the preservation of affordable Lifeline-

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<sup>1</sup> Lifeline and Link Up Reform and Modernization, et al. (Third Report and Order, Further Report and Order, and Order on Reconsideration), 31 FCC Rcd 3962 (2016) (“Lifeline Modernization Order”).

supported voice telephone service for low-income households. The importance of the preservation of Lifeline support for voice service was noted by other petitioners, including the National Association of State Utility Consumer Advocates (NASUCA) and NTCA – The Rural Broadband Association and WTA – Advocates for Rural Broadband. In the comments filed on July 29, additional parties, including GVNW Consulting and Sacred Wind Communications, concurred with the importance of continued availability of Lifeline-supported voice service for the millions of low-income households who rely on it to communicate with family, friends, employers, healthcare providers, and others, and to access emergency services through the 911 emergency calling system, as well as other governmental services accessible through N11 dialing. Perhaps most importantly, not a single petitioner or commenter expressed agreement with the Commission’s decision to reduce support for voice Lifeline service and to abolish standalone voice Lifeline service entirely in 2021. The record throughout this proceeding in general, and the record established during the reconsideration phase of the proceeding in particular, provide no basis for reducing or eliminating Lifeline subsidization of voice service. Accordingly, TracFone reiterates its request that that aspect of the Lifeline Modernization Order be reconsidered.

Several other recent filings warrant further comment by TracFone.

**I. A 12 Month Port Freeze Rule for Broadband Lifeline is Appropriate**

In the Lifeline Modernization Order, the Commission established a rule prohibiting voice-only Lifeline service consumers from switching providers for a 60 day period following enrollment. For broadband Lifeline service (including bundled services which contain both voice and broadband benefits), customer selections are to be “frozen” for 12 months. Some commenters, including, *e.g.*, GVNW Consulting, oppose the so-called “port freeze” rule noting

that “it is a strange economic proposition that . . . competition will be enhanced by limiting consumer choice.” TracFone does not agree with GVNW Consulting and others who have opposed the port freeze rule. However, GVNW Consulting has raised a point that warrants response. In general, consumers enrolled in a government-supported program should not be “locked in” to a certain vendor of a product or service supported by the government program for prolonged periods. However, the 12 month port freeze rule for broadband services should be viewed from the perspective of its compatibility with the Commission’s goal of expanding broadband access and deployment among low-income households.

Expansion of broadband adoption by low-income households will require more than a \$9.25 monthly subsidy. In order to utilize broadband Internet access services, including subsidized services, consumers must possess suitable Internet access devices – smartphones, tablets, laptop computers, etc. Even at the lower end of the price ranges for such devices, those devices are costly and beyond the means of many low-income households. The Commission took an important step toward facilitating access to broadband devices by adopting TracFone’s proposal to require that Lifeline providers who offer devices to their Lifeline customers provide devices which are both Wi-Fi-enabled and capable of being used as hotspots. That requirement, when implemented, will result in many households having Internet access devices previously unaffordable to them.

In order for Lifeline providers to justify that investment in Wi-Fi-enabled and hotspot-capable devices which are needed to utilize broadband service, those providers will need a reasonable period to recover that investment. Absent a port freeze rule, a consumer could enroll in a broadband Lifeline program, receive such a device from a provider, and a week (or even a day) later de-enroll and enroll in another provider’s Lifeline program and, by doing so, obtain

another device. The 12 month port freeze rule reflects a careful balancing between consumers' rights to choose their preferred service provider, on the one hand, and encouraging Lifeline providers to invest in their broadband Lifeline programs, on the other hand. That careful balancing should not be changed on reconsideration. That said, TracFone agrees with those who have advocated that Lifeline providers not be allowed to reduce the Lifeline benefits to customers (or increase the costs to consumers to receive Lifeline benefits) during the applicable port freeze period. If a Lifeline customer is committed to a specific provider's service for a stated period (whether 60 days for voice only, or 12 months for services which include broadband), then the customer should have price certainty for that duration.

## **II. Lifeline Consumers Should Be Afforded Flexibility as to How They Use Their Lifeline-Supported Service**

In their reconsideration petition, the Joint ETC Petitioners sought clarification that Lifeline providers may satisfy the prescribed minimum service standards by making available voice and/or broadband allowances that meet the standards while allowing consumers to use their allowances either for voice or for broadband data based upon their needs. Q-Link Wireless's comments support that requested clarification. TracFone concurs with the requested clarification. If, for example, a provider after December 1, 2016 offers Lifeline customers 500 "units" which may be used by the customer either for voice or data (*e.g.*, each unit counting as one minute of voice service or one MB of data), then that provider should be deemed to have met the applicable minimum service standard. The minimum standards as of that date (assuming Office of Management and Budget approval by December 1, 2016) will be either 500 minutes of voice or 500 MB of data. Any consumer enrolling in such a plan will have **available** either 500 minutes of voice or 500 MB of data or 500 units which can be used either for voice or data,

depending on the consumer's needs and preferences. How the consumer allocates that benefit should be left to the discretion of the consumer based on that consumer's then-current needs.

TracFone is currently exploring the possibility of offering such a "unit"-based Lifeline service. If it provides such a service, then each Lifeline customer would be able to use his or her Lifeline benefit either for voice or for broadband data, or for some combination of both, depending on the consumer's needs and preferences. Those needs and preferences may change from month to month.<sup>2</sup> Those consumers who use smartphones capable of both Internet access and voice calling should be allowed to select how to use their Lifeline benefit. If, in a given month, they have a need to access the Internet, they will be free to do so. Alternatively, if in a given month, the consumer has a heavy need to use voice telephone service, perhaps due to a family health emergency or for other reasons, he or she will be able to use much or all of the monthly benefit for voice. Decisions as to how to use Lifeline benefits should be made by Lifeline consumers based on their current circumstances. Those decisions should not be made for them by Commission regulations. For that reason, TracFone joins with Q-Link Wireless in supporting the Joint ETC Petitioners' request for clarification of this important point, provided that this choice be limited to those Lifeline consumers who use smartphones capable of both mobile voice service and mobile broadband service.

### **III. The Commission Should Reconsider Its Decision to Reduce the De-enrollment for Non-Usage Period from 60 Days to 30 Days**

In its reconsideration petition, TracFone asked the Commission to reconsider its decision to reduce the period for de-enrollment for non-usage codified at Section 54.407(c) of the

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<sup>2</sup> As the minimum standards increase, the number of "units" would have to increase. Effective December 1, 2017, the minimum voice standard will be 750 minutes, and the minimum broadband data standard will be 1 GB. Each Lifeline provider's "units" allowance will have to be adjusted upward based upon the increased minimum standards.

Commission's rules<sup>3</sup> from 60 days to 30 days.<sup>4</sup> No commenter opposed that aspect of TracFone's petition. One commenter, Sprint Corporation, commented in support of TracFone's request that the non-usage rule be reconsidered.<sup>5</sup> Sprint's concurrence with TracFone's concerns about the shortening of the de-enrollment for non-usage period is significant. TracFone (through its SafeLink Wireless® Lifeline program) and Sprint (through its Assurance Wireless Lifeline program) are the nation's largest providers of Lifeline service. As such, they have more experience with the de-enrollment for non-usage rule than do any other providers. Sprint's comments and the data contained therein corroborate TracFone's experience that many Lifeline customers who are forcibly de-enrolled for 60 days' non-usage intend to continue to use the service and re-enroll almost immediately.

As described in its reconsideration petition, TracFone has had the same experience. Shortening the period for non-usage de-enrollment to thirty days will not result in program savings. What it will do is increase program costs for providers who will need to re-enroll thousands of de-enrolled applicants each month; it will increase costs for USAC which must process many thousands of re-enrollment applications; and, most importantly, it will disserve the interests of Lifeline consumers who will experience service disruptions and the otherwise unnecessary burden of going through the enrollment process once again for no reason other than that they did not use their service for a short period. In most cases, those periods of non-usage by consumers are due to unavoidable circumstances like illness and lost or broken handsets. For the reasons set forth in TracFone's petition for reconsideration and those articulated in Sprint's comments, TracFone reiterates its request that the Commission reconsider its change to the non-

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<sup>3</sup> 47 C.F.R. § 54.407(c).

<sup>4</sup> TracFone Petition for Reconsideration, at 23-25.

<sup>5</sup> Sprint Corporation Comments, at 6-7.

usage de-enrollment rule and retain the 60 day non-usage rule — a rule which was the result of discussions among several state commissions and Lifeline providers, and which has worked well for many years.

#### **IV. Those Who Oppose Reductions in the Minimum Service Standards Disregard the All-Important Consideration of Affordability**

TracFone was one of several petitioners who requested that the Commission reconsider the wisdom of the specific minimum service standards for voice and for broadband mandated by the Commission in the Lifeline Modernization Order.<sup>6</sup> Underlying TracFone's concerns with the minimum service standards is the concept of affordability, especially with regard to broadband. Requiring ETCs to provide 2 GB of mobile broadband data by December 1, 2018, and thereafter, being subject to a minimum standard based on seventy percent of the average family's mobile broadband usage (without regard to the number of family members or the number of broadband devices in a family) will cost Lifeline providers far more than the \$9.25 federal Universal Service Fund subsidy available. Although wholesale broadband prices in 2018 and beyond are not ascertainable at this time, based on current prices, such offerings could cost consumers \$60 or more per month **after** application of the \$9.25 federal support payment.<sup>7</sup> Nothing in the record before the Commission indicates how much wholesale broadband prices will decline in the coming years or whether they will decline at all.

If a Lifeline provider is required to deliver quantities of broadband service that cost \$60 or more per month to provide and it receives a monthly subsidy of \$9.25 per month, then it will have to charge its Lifeline customers \$50 or more in order to cover its costs of providing service to meet that standard. As TracFone, Sprint, and others learned from their participation in the

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<sup>6</sup> TracFone Petition for Reconsideration, at 6-19.

<sup>7</sup> *Id.*, at 15-16.

Commission's broadband pilot programs, few Lifeline-eligible low-income households will pay even lower amounts than that for broadband service, either because they cannot do so or because they choose not to do so. The Commission's commitment to deliver robust Lifeline-supported broadband benefits to low-income households is well-intentioned and commendable. However, the Commission should focus on the all-important consideration of affordability. Requiring providers to offer 2GB and (based on the 2019 standard) potentially much greater levels of data will be of no benefit to those households if the cost to them of the service is more than they can afford or the service is more than they need. A Lifeline program whose primary purpose is to make telecommunications service affordable to low-income households should not have the perverse and unintended consequence of forcing the price of the service to levels which are unaffordable for millions of low-income families.

In this regard, a statement contained in the opposition of the Greenlining Institute *et al.* warrants response. The Greenlining Institute references TracFone's statement that it would cost approximately \$40 per month to provide a Lifeline consumer with a smartphone, unlimited voice and text service, and 1 GB of data. It then asserts that "it would be more precise to state that TracFone would **charge** customers that amount."<sup>8</sup> The Greenlining Institute then states that Lifeline subscribers are entitled to the same level and quality of service as every other subscriber.<sup>9</sup> TracFone agrees with the notion that Lifeline subscribers should receive service comparable to that available to other consumers. However, Lifeline providers' ability to offer services comparable to those available to non-Lifeline customers is limited by the Lifeline support amount available. Requiring Lifeline providers to meet service standards that place the subsidized price of service beyond the reach of most low-income households will do nothing to

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<sup>8</sup> Greenlining Institute Opposition, at 6 n.17 (emphasis original).

<sup>9</sup> *Id.*, at 7.

advance the goal of broadband deployment in low-income communities. The Commission's and the Greenlining Institute's commitment to Lifeline service standards is commendable. However, those standards must not result in Lifeline services becoming unaffordable to the very populations they are intended to benefit.

### **CONCLUSION**

For the reasons set forth in these reply comments, as well as those contained in TracFone's petition for reconsideration and its initial comments on the reconsideration petitions, TracFone respectfully urges the Commission to reconsider its Lifeline Modernization Order in accordance with those views.

Respectfully submitted,

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August 8, 2016